

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

April 11, 2008

\_\_\_\_\_  
No. 07-40935  
Summary Calendar  
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Charles R. Fulbruge III  
Clerk

STEVIE WAYNE JOHNSON

Petitioner-Appellant

v.

PAUL KASTNER

Respondent-Appellee

\_\_\_\_\_  
Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 5:06-CV-175  
\_\_\_\_\_

Before JOLLY, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:\*

Stevie Wayne Johnson, Texas prisoner # 33435-077, was convicted of conspiring to possess cocaine with intent to distribute and possessing cocaine with intent to distribute. He was sentenced to serve 240 months in prison. He filed a 28 U.S.C. § 2241 habeas corpus petition to challenge his convictions, and he now appeals the district court's dismissal of his § 2241 petition. Johnson argues that his judgment of conviction is void and he is entitled to § 2241 relief because he was prosecuted under the wrong indictment. He further argues that

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

28 U.S.C. § 2255 relief does not provide an adequate remedy to address this claim, and he contends that he is actually innocent. Johnson moves this court to take judicial notice of facts concerning the errors in his judgment and the indictments.

Johnson has not shown that the district court erred in determining that his purported § 2241 petition was best construed as an unauthorized successive § 2255 motion. See *Tolliver v. Dobre*, 211 F.3d 876, 877 (5th Cir. 2000); *Cox v. Warden, Fed. Det. Ctr.*, 911 F.2d 1111, 1113 (5th Cir. 1990). Johnson likewise has not shown that he should be permitted to proceed under the savings clause of § 2255. See *Reyes-Requena v. United States*, 243 F.3d 893, 904 (5th Cir. 2001); *Pack v. Yusuff*, 218 F.3d 448, 452-53 (5th Cir. 2000). The judgment of the district court is AFFIRMED. All outstanding motions are DENIED.